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Guidance note:

Overview of Malta corporate and other taxes

Abie International 

Malta corporate taxes

Malta taxes companies considered resident and domiciled in Malta on a worldwide basis at a corporate tax rate of 35%. In general, expenses wholly and exclusively incurred in the production of the company's income may be deducted from taxable income.

Malta operates a full imputation system whereby Malta taxpayers in receipt of dividends out of a Malta company's taxed profits receive full credit for any tax paid at the level of the company, thus preventing the risk of economic double taxation on that income.

Where the shareholder is liable to tax in Malta on that dividend at a rate which is lower than the company rate of tax, excess imputation tax credits are refundable.

TAX REFUNDS

Upon receipt of a dividend, shareholders of a Malta company may claim a refund of all or part of the Malta tax paid at the level of the company on such income. The refund is more commonly calculated at 6/7ths of the Malta tax paid.

DOUBLE TAXATION RELIEF

Malta's tax laws grant relief from double taxation with respect to foreign tax suffered. **Treaty Relief** is applied in respect of income derived from a country with whom Malta has concluded a Double Taxation Treaty. Malta currently has in-excess of 70 double taxation treaties in place. The foreign source income is included in the company's chargeable income but the foreign tax suffered is then applied as a credit against the Malta tax liability.

Where a double taxation treaty is not in place, Malta provides **Unilateral Relief** which operates similarly to **Treaty Relief** provided that proof of the foreign tax suffered is provided.

Commonwealth income tax relief applies to a person who is liable to pay Commonwealth income tax in respect of any part of his income. Commonwealth income tax is income tax or tax of a similar nature imposed in a Commonwealth country and is only granted on a reciprocal basis.

When none of the above forms of relief can be applied, it is possible to apply a **Flat Rate foreign Tax Credit**, which is a form of relief for a deemed tax.

PARTICIPATION EXEMPTION

Income or capital gains derived by Malta Holding companies from qualifying participating holdings ("PH") is exempt from tax in Malta at the option of the company subject to the fulfilment of certain conditions as set out below.

An investment qualifies as a PH where a Malta company is an equity shareholder in another company and:

- (a) holds directly at least 5 percent of the equity shares of such company, which holding confers an entitlement to at least five per cent of any two of the following ("equity holding rights"): right to vote; profits available for distribution; and assets available for distribution on a winding up; or
- (b) is entitled at its option to call for and acquire the entire balance of the equity shares not held by that equity shareholder company to the extent permitted by the law of the country in which the equity shares are held; or
- (c) is entitled to first refusal in the event of the proposed disposal, redemption or cancellation of all of the equity shares of that company not held by that equity shareholder company; or
- (d) is entitled to either sit on the Board or appoint a person to sit on the Board of that company as a director; or
- (e) holds an investment representing a total value, as on the date or dates on which it was acquired, of a minimum of one million, one hundred and sixty-four thousand euro (€1,164,000) (or the equivalent sum in a foreign currency) and that investment is held for an uninterrupted period of not less than 183 days; or
- (f) such shares are held for the furtherance of its own business and the holding is not held as trading stock for the purpose of a trade.

Equity shares refers to a holding of the share capital in a company which entitles the shareholder to at least any two of the following three rights:

- the right to vote;
- the right to profits available for distribution to shareholders; and
- the right to assets available for distribution on a winding up of the company.

BENEFITS OF THE PARTICIPATION EXEMPTION

Capital gains derived from the disposal of a PH may be exempt from tax in Malta.

On the other hand, dividend income from a PH may also be exempt from tax in Malta provided that the company in which the PH is held falls within **one** of the following safe harbours:

- Resident or incorporated in the EU;
- Subject to any foreign tax at a rate of at least 15%;
- Less than 50% of its income is derived from passive interest or royalties.

WITHHOLDING TAX

Malta does not levy withholding tax on dividends, interest and royalties paid to non-residents whether individuals, corporates or other legal persons.

WEALTH AND CAPITAL TAXES

Malta does not impose any tax on wealth or capital.

STAMP DUTY

Stamp duty is chargeable on transfers of immovable property at 5% (with a reduced rate of 2% applicable to transfers of immovable property in Gozo) and on the transfer of marketable securities at 2% (and 5% in respect of transfers of shares in property holding companies).

It is possible to obtain an exemption from the application of stamp duty for companies whose shares are held as to more than 50% by non-Maltese residents (other conditions must apply) or companies whose shares are held as to more than 50% by non-Maltese residents with more than 90% of the business carried out by such companies outside Malta.

CUSTOMS DUTY

Goods imported from outside the European Union may be subject to customs duties. A Customs Code provides for customs procedures and concepts, which are based on European Union requirements.

EXCISE DUTY

Excise duties are chargeable on certain energy products, certain alcoholic drinks, certain manufactured tobacco products, and mobile telephony services.

PROPERTY TAXES

Maltese tax legislation does not contain any wealth taxes or other similar taxes on property, save for the property transfers tax applicable on transfers of immovable property located in Malta.

VALUE ADDED TAX

VAT is levied on the supply of good and services in Malta, the intracommunity acquisition of good in Malta and the import of goods into Malta from outside the EU.

The standard VAT rate is 18% with rates of 7%/5%/0% applicable in certain cases. Some transactions are exempt notably banking and insurance services, the sale and leasing of immovable property, amongst other services.

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Our team will be pleased to discuss this further with you.

For further information please contact

Nissim Ohayon

nohayon@abieinternational.com.mt
T. +356 2149 1068

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Abie International

The Watercourse
Central Business District – Zone 2
Mdina Road
Birkirkara CBD 2010
Malta

T. +356 2149 1068
nohayon@abieinternational.com.mt